

## Message Text

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PAGE 01 CARACA 05685 211323Z  
ACTION EB-08

INFO OCT-01 ARA-10 ISO-00 SOE-02 AID-05 CEA-01 CIAE-00  
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R 211250Z JUN 78  
FM AMEMBASSY CARACAS  
TO SECSTATE WASHDC 2749

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E.O. 11652: N/A  
TAGS: ENRG, PFOR, VE  
SUBJECT: OIL COMPANY PROBLEMS

REF: CARACAS 208

1. THE VENEZUELAN INCOME TAX COURT HAS UPHELD A CLAIM MADE BY THE COMPTROLLER GENERAL IN 1976 AGAINST AMERICAN PETROFINA OF VENEZUELA FOR 99,998 BOLIVARES (\$23,225). THIS IS A VERY MINOR ONE OF A NUMBER OF OUTSTANDING CLAIMS AGAINST THE FORMER OIL COMPANY CONCESSIONARIES WHICH IN TOTAL AMOUNT TO MORE THAN TWO BILLION BOLIVARES (\$465 MILLION) IN PENDING ASSESSMENTS. THIS DECISION CAN BE APPEALED TO THE SUPREME COURT.

2. THE TAX COURT'S DECISION IS THE FIRST OF THE GROUP OF CASES STEMMING FROM THE 1976 RULING BY THE VENEZUELAN COMPTROLLER, AMBRAHAM MUCI. MUCI BASED HIS RULING ON LEGISLATION ENACTED IN DECEMBER, 1970 AND IMPLEMENTED IN MARCH 1971, WHICH FIXED A HIGHER LEVEL OF REFERENCE PRICES AS THE BASIS FOR TAX LEVIES. THE UNDERSTANDING WAS THAT THE LEVIES WOULD BE FOR THE YEAR 1971. MUCI RULED THAT THE LEGISLATION ALSO APPLIED TO 1970, RESULTING IN THE MORE THAN TWO BILLION BOLIVARES ALLEGED LIABILITY. THE COMPANIES CLAIM (AND THE LIMITED OFFICIAL USE

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EXECUTIVE BRANCH AGREED) THAT THE COMPTROLLER'S APPLICATION WAS A RETROACTIVITY NOT FORESEEN OR PROVIDED FOR IN THE LEGISLATION. THE RULING MADE BY THE TAX COURT DOES NOT UPHOLD THE COMPANIES' CONTENTION AND MAINTAINS THAT THE COMPTROLLER'S INTERPRETATION IS A LEGAL AND ACCEPTABLE ONE.

3. PERIODIC DEMARCHES BY THE AMBASSADOR AND EMBASSY OFFICERS

AT VARIOUS ELEVELES, INCLUDING THOSE TO PRESIDENT PEREZ HIMSELF, HAVE MADE THE GOV WELL AWARE OF THE USG'S SERIOUS CONCERN. THE COMPANIES' DEMARCHES HAVE BEEN FREQUENT AND FORCEFUL, AND THEIR REACTION TO THE TAX COURT DECISION HAS BEEN PREDICTABLY STRONGLY NEGATIVE.

4. THE FACT THAT THE PETROFINA CLAIM IS A SMALL ONE AND THE COMPANY OBSCURE MAY BE ADVANTAGEOUS SINCE THE SUPREME COURT WILL BE ABLE TO CONSIDER IT WITHOUT THE PUBLICITY AND EMOTION THAT WOULD BE GENERATED IF THE CLAIM IN QUESTION WERE ONE OF THE MULTI-MILLION DOLLAR CLAIMS OF A MAJOR COMPANY.

5. PETROFINA FILED AN APPEAL WITH THE SUPREME COURT ON JUNE 19.  
VAKY

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NNN

## Message Attributes

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**Disposition Approved on Date:**  
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